
UTAH LABOR COMMISSION

ADAN RIOS,

Petitioner,

vs.

VALLEY SERVICES, INC.,

Respondent.

**ORDER DENYING REQUEST
FOR RECONSIDERATION**

Case No. 8080354

Adan Rios asks the Labor Commission to reconsider its prior decision regarding his charge that Valley Services, Inc. unlawfully discriminated against him in violation of the Utah Antidiscrimination Act, Title 34A, Chapter 5, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this matter pursuant to §63G-4-302 of the Utah Administrative Procedures Act.

BACKGROUND AND ISSUES PRESENTED

Mr. Rios claims that Valley Services, Inc. terminated him because of his race, national origin and age. Judge Lima found that Mr. Rios failed to submit a required statement concerning his discrimination complaint in conjunction with the evidentiary hearing he had requested. Judge Lima therefore dismissed Mr. Rios's complaint.

After considering Mr. Rios's motion for review, the Commission affirmed Judge Lima's dismissal of Mr. Rios's complaint because he had not identified any grounds on which Judge Lima's decision should be overturned. Mr. Rios now asks the Commission to reconsider its decision. In his request for reconsideration, Mr. Rios reiterates his discrimination complaint but still has not shown why Judge Lima's decision should be overturned.

DISCUSSION

On May 28, 2009, Mr. Rios was present at a pre-hearing conference and agreed to file a statement regarding his discrimination complaint by June 10, 2009. Mr. Rios failed to file a statement by June 10, 2009. Judge Lima then extended the deadline for Mr. Rios to file his statement until June 25, 2009. Mr. Rios again failed to file any statement according to the deadline. Judge Lima therefore dismissed Mr. Rios's complaint for failing to file his required statement. Mr. Rios filed a motion for review of Judge Lima's decision, but did not specify the grounds on which her decision should be overturned. The Commission therefore affirmed Judge Lima's decision to dismiss the complaint.

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Mr. Rios now requests reconsideration of the Commission's decision to affirm the dismissal of his complaint. However, Mr. Rios has not offered any argument or reason why his complaint should not have been dismissed. The evidence shows that Mr. Rios had the opportunity to present his case at the hearing he requested, but he did not submit his required statement even after Judge Lima granted him a two-week extension to do so. Judge Lima's decision to dismiss Mr. Rios's complaint was proper according to the applicable law.

In his request for reconsideration, Mr. Rios describes the circumstances surrounding his termination, but does not explain how the events leading up to his termination constitute discrimination. Mr. Rios claims that his supervisor temporarily kept him from leaving work for a doctor's visit, but Mr. Rios has not shown how such alleged conduct is discriminatory. The Commission therefore reaffirms its previous finding upholding Judge Lima's decision to dismiss Mr. Rios's complaint for failure to file his required statement according to the established deadline.

ORDER

The Commission denies Mr. Rios's request for reconsideration and reaffirms its previous decision. It is so ordered.

Dated this 28th day of January, 2010.



Sherrie Hayashi, Commissioner

NOTICE OF APPEAL RIGHTS

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.